

SENATE BILL REPORT

ESB 6033

As Amended by House, April 9, 2009

Title: An act relating to creating the prevent or reduce owner-occupied foreclosure program.

Brief Description: Creating the prevent or reduce owner-occupied foreclosure program.

Sponsors: Senators Berkey, Fairley, Kauffman, McAuliffe, Tom, Marr, Prentice, Shin, Fraser, Kohl-Welles, Eide, McDermott, Jarrett, Regala, Hobbs, Kline, Jacobsen, Murray, Franklin, Hatfield, Kilmer, Haugen, Hargrove and Sheldon.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 2/18/09 [DP].

Passed Senate: 3/06/09, 46-0.

Passed House: 4/09/09, 98-0.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: Do pass.

Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin, McDermott, Parlette and Schoesler.

Staff: Diane Smith (786-7410)

Background: In September 2007 the Governor established the Task Force for Homeowner Security (Task Force) to evaluate instability in the mortgage market and minimize its then impending impact in Washington. Since that time, the instability in the mortgage market and its economic consequences have made a significant impact on both the residential housing market and the economy in this state.

The Smart Homeownership Choices Program, enacted and funded early in 2008, addresses the Task Force's recommendation to provide grants or loans to assist qualifying low-income and moderate-income homeowners who are delinquent on their mortgage payments.

Under this program, the Department of Financial Institutions (DFI) funds the Washington State Housing Finance Commission (Commission), as needed, to implement and operate the program for the sole purpose of preventing foreclosures.

The Commission assists homeowners who are delinquent on their mortgage payments in

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

bringing their mortgage payments current so they may refinance the purchase of their homes. The Commission determines the terms and conditions of the assistance. Financial assistance received by homeowners must be repaid at the time of refinancing. Homeowners receiving financial assistance must agree to participate in a Residential Mortgage Counseling Program.

Not more than 4 percent of the total appropriation for the program may be used for administrative expenses of the DFI and the Commission. The Commission must also establish and report upon measures to gauge program's efficiency and effectiveness and customer satisfaction.

The monies appropriated for the Smart Homeownership Choices Program remain largely unspent.

A Financial Literacy and Education Program, enacted and funded early in 2008 and implementing another recommendation of the Task Force, provides counseling and education to prospective homeowners and homeowners facing foreclosure. This program is provided through DFI contracts with counselors certified either by the federal Department of Housing and Urban Development (HUD) or certified by DFI itself.

Summary of Engrossed Bill: The monies remaining unspent for the Smart Homeownership Choices Program are made available to the Prevent or Reduce Owner-Occupied Foreclosure Program (PROOF). The Smart Homeownership Choices Program is replaced by PROOF. This program is created in DFI to assist borrowers facing foreclosure in achieving work-outs. Qualifying borrowers are those with incomes up to and including the county median income level.

PROOF provides a pool of unpaid volunteers from relevant professions, such as certified public accountants, bankers, and attorneys, who provide advice to borrowers in the work-out process. The Commission implements the program by which volunteers and borrowers are paired in the most productive manner.

Not more than 4 percent of the total appropriation for PROOF may be used for administrative expenses of DFI and the Commission. The Commission must also establish and report upon measures to gauge the program's efficiency and effectiveness and customer satisfaction.

The Housing Finance Commission must establish an oversight committee to serve as the principal advisory body to the commission for PROOF. The committee is comprised of two members of the Senate, two members of the House of Representatives, the Director of the Department of Financial Institutions, the Executive Director of the Housing Finance Commission, and four nonvoting members. The nonvoting members represent the Office of Civil Legal Aid, the Washington Bankers' Association, the State Board of Accountancy, and the Washington State Bar Association. All members serve without compensation.

The committee must evaluate PROOF's success, maintain an inventory of state and federal housing assistance programs, and coordinate the efforts of PROOF.

Appropriation: None.

Fiscal Note: Requested on February 16, 2009.

Committee/Commission/Task Force Created: Yes.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The Bar Association looks forward to this opportunity to partner. Banks and credit unions are willing to put resources into this innovative program. They will work to marshal volunteers, and hope to see this program develop into the coordination of all activities aimed at preventing foreclosures from the federal, state, and local levels. The Realtors are ready to standby and assist as soon as the distressed property act is passed.

Persons Testifying: PRO: Denny Eliason, Washington Bankers Association; Bob Mitchell, Washington Realtors; Jeanne Cushman, Washington State Bar Association, Board of Governors.

House Amendment(s): Clarifies that among the objectives of the volunteers is assisting in loan modifications, or other results that keep borrowers in their homes.

Borrowers who are eligible for assistance are those who are residents of Washington State, with an emphasis on borrowers with incomes up to 140 percent of the county median income level.

Mortgage brokers and housing counselors are added to specified members of the pool of volunteers.

The requirement that accountant volunteers be certified public accountants is removed.

The program's authority to qualify volunteers as third parties from whom declarations may be obtained, regarding deeds of trust, is removed.

Representatives of community banks, mortgage brokers, housing counselors, and credit unions are added to the oversight committee, raising the total number of members to 14.

The appointment of alternate members from the Legislature is removed.

Representatives from the Washington State Bar Association, the Office of Civil Legal Aid, a bankers association, and the State Board of Accountancy are changed from nonvoting to voting members of the committee.

The act is repealed on June 30, 2011.